

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

DANIEL HAMM,

Petitioner,

v.

CIVIL ACTION NO. 5:12-cv-04521

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER**

The Court has reviewed the Petitioner's August 20, 2012 Application for Writ of *Habeas Corpus* by a Person in Federal Custody under 28 U.S.C. § 2241 (Document 1) and October 18, 2013 "Motion to Request Withdrawal of Application for Writ of Habeas Corpus Under 28 U.S.C. § 2241" (Document 5).

By *Standing Order* (Document 3) entered on August 20, 2012, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On October 21, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 6) wherein it is recommended that this Court grant the Petitioner's "Motion to Request Withdrawal of Application for Writ of Habeas Corpus Under 28 U.S.C. § 2241" (Document 5), dismiss the Petitioner's Section 2241 Application (Document 1) without prejudice, and remove


this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by November 7, 2013.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.<sup>1</sup> The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's "Motion to Request Withdrawal of Application for Writ of Habeas Corpus Under 28 U.S.C. § 2241" (Document 5) be **GRANTED**, that the Petitioner's Section 2241 Application (Document 1) be **DISMISSED WITHOUT PREJUDICE**, and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: November 12, 2013

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA

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<sup>1</sup> On October 28, 2013, the Petitioner filed a response (Document 7) indicating that he had no objections to the *Proposed Findings and Recommendation*.